

## TITLE 4. CONSERVATION AND NATURAL RESOURCES

### MARINE RESOURCES COMMISSION

#### Final Regulation

REGISTRAR'S NOTICE: The Marine Resources Commission is claiming an exemption from the Administrative Process Act in accordance with § 2.2-4006 A 11 of the Code of Virginia; however, the commission is required to publish the full text of final regulations.

Title of Regulation: **4VAC20-260. Pertaining to Designation of Seed Areas and Clean Cull Areas (amending 4VAC20-260-50).**

Statutory Authority: § 28.2-201 of the Code of Virginia.

Effective Date: October 25, 2017.

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Summary:

*The amendment establishes inspection procedures for oysters kept in individual baskets and clarifies the methods police officers may use to inspect oyster harvests for conformity to culling standards.*

**4VAC20-260-50. Culling and inspection procedures.**

A. All oysters taken from natural public beds, rocks, or shoals shall be placed on the culling board; or in only one basket upon the culling board; and culled by hand at the location of harvest.

1. Culled oysters shall be transferred immediately from the culling board to either the inside open part of the boat; and stored in either a loose pile; or baskets; ~~but only one transfer method may be used on any boat or vessel in any one day.~~

a. Oysters shall not be stored in both a loose pile and in baskets.

b. A single basket may be on board any boat during transfer of culled oysters from the culling board to the inside open part of the boat in a loose pile.

2. The entire harvest shall be subject to inspection, as provided in subsection F of this section.

B. Any oysters taken lawfully by hand from natural public beds, rocks, or shoals from the seaside of the Eastern Shore, and held in sacks, bags, or containers, shall be culled when taken and placed in those sacks, bags, or containers for inspection by any police officer as described in subsection G of this section.

C. If oysters from leased grounds and oysters from public grounds are mixed in the same cargo on a boat or motor vehicle, the entire cargo shall be subject to inspection under this chapter.

D. It shall be unlawful for any person to buy, sell, or report clean cull oysters by any measure other than those described in § 28.2-526 A of the Code of Virginia filled to level full. The container described in § 28.2-526 A 2 is a basket. It shall be unlawful for any person to sell, purchase, or report the sale or purchase of any clean cull oysters harvested from public grounds, as described in 4VAC20-720-40, in excess of the harvest limits described in 4VAC20-720-80.

E. It shall be unlawful for any person to buy, sell, or report seed oysters by any measure other than as described in § 28.2-526 of the Code of Virginia.

F. Oysters may be inspected by any police officer according to any one of the following provisions:

1. For any oysters ~~transferred from the culling board to the inside open part of the boat, vehicle, or trailer or~~ stored in a loose pile in a vehicle, a trailer, or the inside open part of a boat, ~~any~~ the police officer ~~may~~ shall use a shovel to take ~~at least one bushel~~ basket of oysters to inspect, at random, provided that the entire bushel or basket shall be taken from one place in the open pile of oysters. The officer may inspect multiple baskets by repeating this procedure for each basket of oysters shoveled from the loose pile.

2. For any oysters ~~transferred from a vessel to a motor vehicle or trailer, any~~ stored in baskets in a vehicle, a trailer, or the inside open part of a boat, the police officer ~~may~~ shall select one ~~or more baskets of oysters and empty the contents of those baskets into a bushel or basket, as described in § 28.2-526 of the Code of Virginia,~~ basket for inspection. The officer may inspect multiple baskets by repeating this procedure for each basket.

G. In the inspection of oysters harvested by hand from waters of the seaside of the Eastern Shore, the police officer may select any sacks, bags, or containers at random to establish a full metallic measuring bushel or basket for purposes of inspection.

H. On the seaside of the Eastern Shore oysters may be sold without being measured if both the buyer and the seller agree to the number of bushels of oysters in the transaction.